

ELECTION WITH TRAVERSE

The Office Action has imposed a restriction requiring election of one of three (3) distinct inventions (Groups):

- I. Claims 1-27, 70 and 92, drawn to a method for billing and authentication classified in class 705, subclass 34;
- II. Claim 51, drawn to a method of authentication classified in class 705, subclass 44; and
- III. Claim 116, drawn to a method of dispute resolution, classified in class 705, subclass 80.

The Applicant provisionally elects Group I, Claims 1-27, 70 and 92, with TRAVERSE.

REMARKS

The Office Action has made a restriction requirement based on inventions (Groups) I, II, and III as being allegedly unrelated. It appears, however, that the restriction requirement has failed to meet the criteria for proper restriction requirements as set forth in MPEP § 803.

There are two criteria for a proper restriction requirement between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP Section 802.01, Section 806.04, Section 808.01) or distinct as claimed (see MPEP Section 806.05 – Section 806.05(i)); **and**

(B) There must be a serious burden on the examiner if restriction is required (see MPEP Section 803.02, Section 806.04(a) – Section 806.04(i), Section 808.01(a), and Section 808.02).

See MPEP § 803 (emphasis supplied).

In contrast, the Examiner asserts that the “[i]nventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).” *See* Office Action, page 1. The Examiner further asserts that the “inventions are separate and distinct and do not require the specifics of each other to function, i.e., authentication does not require billing and authentication does not require dispute resolution.” *See* Office Action, page 1. First, the Applicant cannot find support or a recitation of the Examiner’s reasoning quoted above in the MPEP; and second, the Examiner’s reasoning does not purport with current restriction procedure.

The attention of the Examiner is directed to the provisionally elected claims of Group I wherein claim 92 has been reproduced below for the convenience of the Examiner:

92. A method for facilitating transaction processing and disposition within an access controlled environment, comprising the steps of:

- at a user system operated by a user, accessing an access control facility via a global data processing network, said access control facility configured to maintain user information related to said user;
- permitting or denying said user system operable access to an access controlled environment maintained within a data processing environment based on a profile related to said user including a user-specific level of security;
- at a transaction management facility coupled to said access control facility and operating within said access

controlled environment, storing and maintaining data related to a transaction involving said user based on a predetermined security level to facilitate disposition of said transaction within said access controlled environment, said transaction management facility determining accessibility related to said data for said user based on said user's profile;

at an authentication facility operating within said access control environment, authenticating said data related to said transaction based on a predetermined authentication level set to correspond to said transaction;

at a communication facility coupled to said access control facility, said transaction management facility said authentication facility, and operating within said access controlled environment, communicating with external systems to facilitate disposition of said transaction based on said data stored and maintained by said transaction management facility; and

at a billing facility operating within said access controlled environment, consolidating data related to internal operations performed by said access control facility, said transaction management facility, and said authentication facility, generating and processing billing data, and sending a billing notice based on said billing data to a responsible party via said global data processing network.

Search and examination of each and every element of this claim requires the examiner to search the classification associated with the Group II claim and the Group III claim. For example, claim 51 (Group II) recites, *inter alia*, “A system for facilitating transaction processing and disposition within an access controlled environment...each user system generating and processing data related to a transaction...said controlled access environment including a data store...an access control facility...an authentication system...and a communications facility.” Claim 116 (Group III) recites, *inter alia*, “A method for facilitating processing and disposition of a dispute involving a plurality of transaction parties within an access controlled environment... at

an access control facility...creating and maintaining user security profiles...permitting or denying a user to login into an access controlled environment maintained within a data processing environment...at an authentication facility, requiring said user to enter authentication data...at a communications facility, notifying said plurality of transaction parties of said decision...at a billing facility, consolidating data related to internal operations performed by said access control facility, said transaction management facility, and said authentication facility; and...generating and processing said billing data and sending a billing notice.”

Clearly, not only are the inventions embodied by the claims of Groups I, II, and III related, but a search of the elected Group I claims will necessitate a search of the classifications associated with the Group II and III claims. Therefore, a serious burden does not exist with regard to the search and examination of all claims. The fact that **both the two-way distinctness and serious burden criteria must be satisfied** is made all the more clear by the following statement in the MPEP:

If the search and examination of an entire application can be made without serious burden, the examiner **must** examine it on the merits, even though it includes claims to independent or distinct inventions.

See MPEP § 803 (emphasis supplied). Thus, if the subject matter of the pending claims is such that there would be no serious burden on the examiner to search and examine all of the pending claims at the same time, the examiner is to do so, even if the pending claims are drawn to independent or distinct inventions.

Clearly, there is no serious burden in this case. Applicant respectfully submits that the criteria for examining all of the pending claims is met in the instant application. Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested.

However, if the restriction requirement is not withdrawn, it is earnestly requested that examination proceeding connection with provisionally elected claims 1-27, 70 and 92 (Group I).

Conclusion

The Applicant has provisionally elected Group I for examination, however, the restriction requirement must be withdrawn since it has failed to meet the criteria for proper restriction requirements as set forth in MPEP § 803.

The Applicant respectfully requests withdrawal of the restriction requirement, and examination of all pending claims. The Applicant further submits that the pending claims are in condition for allowance and such action is hereby respectfully requested.

Respectfully submitted,



Ryan Hardee

Reg. No. 57, 515

DUANE MORRIS LLP
1667 K Street, N.W., Suite 700
Washington, D.C. 20006
Telephone: (202) 776-7800
Facsimile: (202) 776-7801
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